

### **REMARKS**

This responds to the Office Action mailed on October 2, 2007.

No claims are amended, no claims are canceled, and no claims are added; as a result, claims 1-27 are now pending in this application.

#### **Rejection Under 35 U.S.C. § 103**

The Office Action rejected claims 1-27 under 35 U.S.C. 103(a) as being unpatentable over Monroe in view of Pavlidis et al: Urban Surveillance Systems, 2001 and in view of Monroe et al., US2003/0025599. The Applicant respectfully traverses this rejection.

The Office Action cites page 1448<sup>1</sup> of the Pavlidis references as disclosing “a high performance motion detection algorithm . . . to detect true motion from noise.” The Applicant respectfully submits that this portion of Pavlidis does not recite a motion detection algorithm that detects true motion from noise as recited in the claims. Rather, Pavlidis relates to a “connected component algorithm” that filters out as noise blobs that have less than a certain area.<sup>2</sup> Therefore, Pavlidis filters out noise based on *area*, not *motion*. Indeed, after removing blobs as a function of area, Pavlidis discloses that only then does a motion-analyzing Multiple Hypothesis Tracking (MHT) algorithm group the blobs not removed by the connected component algorithm into distinct trajectories.<sup>3</sup> The MHT algorithm of Pavlidis simply tracks the motion, it does not “detect true motion from noise.” Because the Pavlidis reference does not disclose the claimed feature of a motion detection algorithm that detects true motion from noise, the Office Action has failed to establish a *prima facie* case of obviousness.

Claim 1 further recites that the “high performance detection algorithm operates on frames having pixels in grey scale for selected portions of images, and operates on frames having pixels in RGB or other color domain for other portions of the images.” In its rejection of claim 1, the

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<sup>1</sup> The Pavlidis reference does not contain a page 1448. However, from the context of the reference, the Applicant assumes that the Examiner meant to cite page 1488 of Pavlidis. If the Applicant is incorrect, the Applicant respectfully requests that the Examiner correct the Applicant in the next communication from the Patent Office.

<sup>2</sup> The Pavlidis reference first refers to the connected component algorithm on page 1482 (1<sup>st</sup> column, last paragraph), and directs the reader to a Robot Vision textbook by Horn. The cited pages (66-69) of Horn confirm that the connected component algorithm is based on area and spatial relations, not motion. The Applicant is submitting along with this response the pertinent pages of the Horn reference for the convenience of the Examiner.

<sup>3</sup> Pavlidis, p. 1488, 2d column, last paragraph.

Office Action points to no portion of either of the cited references (Pavlidis or Monroe) that allegedly disclose this feature. For this additional reason, the Applicant respectfully submits that the Office Action fails to establish a *prima facie* case of obviousness.

The Applicant points out that this feature relating to selected portions of images was recited in original claim 9. In rejecting original claim 9, the Office Action of April 18, 2007 cited paragraph 118 of Monroe as disclosing this feature.<sup>4</sup> The Applicant respectfully disagrees.

Paragraph 118 relates only to analyzing the grey-scale differences between captured frames, and the lack of a need to analyze the color components of a camera video. Paragraph 118 does not disclose operating on pixels in the grey scale for *selected portions* of images, or operating on frames having pixels in RGB for *other portions* of the images.

Since neither Pavlidis nor Monroe discloses the features discussed above, the Office Action has failed to establish a *prima facie* case of obviousness, and the Applicant respectfully requests the withdrawal of the rejection of claim 1 and the claims that are dependent on claim 1.

The Office Action rejected claim 27 under 35 U.S.C. § 103(a). Claim 27, like claim 1, recites that a motion segmentation module operates on frames having pixels in grey scale for *selected portions* of the images, and operates on frames having pixels in RGB for *other portions* of the images. Therefore, for at least the reason recited in connection with claim 1 relating to this feature, the Office Action has failed to establish a *prima facie* case of obviousness, and the Applicant respectfully requests the withdrawal of the rejection of claim 27.

In rejecting claim 16 under 35 U.S.C. § 103(a), the Office Action cites pages 1485-1487 of Pavlidis for the disclosure of a high performance motion detection algorithm wherein frames includes pixels that are grouped in blocks, with each block represented as a single average pixel. The Applicant respectfully disagrees that Pavlidis discloses this feature.

The cited portion of Pavlidis relates to initializing a pixel in a distribution. Specifically, an algorithm checks to see if an incoming pixel value can be ascribed to an existing normal

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<sup>4</sup> The Office Action of April 18, 2007 rejected claims 1 and 9 under 35 U.S.C. § 102(b). In response, the Applicant pointed out that Monroe did not disclose performing two different performance levels of motion detection to different portions of an image as claimed. In response to the Applicant's arguments, the Final Office Action now rejects claims 1 and 9 under 35 U.S.C. § 103(a) based on a combination of Pavlidis and Monroe. However, the Final Office Action does not now contend that either Monroe or Pavlidis discloses this feature of two different performance levels.

distribution.<sup>5</sup> The Final Office Action contends that the Jeffreys divergence measure disclosed in Pavlidis discloses a block of pixels being represented as a single average pixel. The Applicant respectfully disagrees. The Jeffreys divergence measure disclosed in Pavlidis is used to determine whether an incoming data point belongs to an existing distribution.<sup>6</sup> Pavlidis makes no mention of a block of pixels that are represented as a single average pixel.

### **Reservation of Rights**

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

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<sup>5</sup> *Id.*, p. 1486, 1<sup>st</sup> column, no. 3.

<sup>6</sup> *Id.*, p. 1486, last paragraph.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 371-2140 to facilitate prosecution of this application.

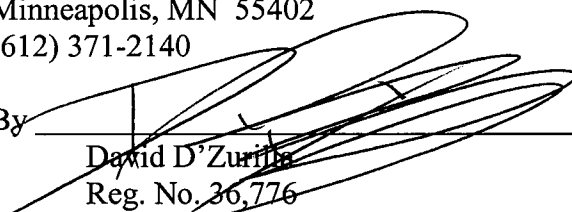
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Respectfully submitted,

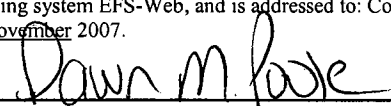
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Date November 19, 2007

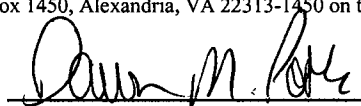
By

  
David D'Zurilla  
Reg. No. 36,776

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 19th day of November 2007.

  
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